

DRAWING AMENDMENTS

The label "Prior Art" has been added to Figs. 1 and 2. All drawing sheets have been numbered.

Attachments: 21 replacement Sheets
 21 annotated Sheet Showing Changes

REMARKS

Reconsideration of the application is requested.

Claims 2-8, 11, 12, and 18-26 and 30-36 are now in the application. Claims 26 and 30-36 are subject to examination and claims 2-8, 11, 12, and 18-25 have been withdrawn from examination. Claim 36 has been added. Claim 9 has been canceled to facilitate prosecution of the instant application.

Under the heading "Response to Arguments" on page 2 of the above-identified Office Action, the Examiner stated that the rejection of independent claim 26 and its dependent claims under 35 U.S.C. § 101 is maintained.

Claim 26 includes a step of placing an advertisement for a product or service on an advertisement medium, the advertisement including a telephonic number for contacting a vendor in order to obtain the product or service and the advertisement including an identification code for indicating an effectiveness of the advertisement. This is not a purely mental step, but rather requires an advertisement medium with an advertisement including a telephonic number and an identification code.

Claim 26 includes a step of enabling a potential customer to place a telephone call by entering the telephonic number into a telecommunications network. This is not a purely mental step, but rather requires the entry of the telephonic number into a physical device, namely a telecommunications network.

Claim 26 includes a step of: based at least partly on bids made for routing the telephone call, selecting a particular one of the plurality of vendors and routing the telephone call through the telecommunications network to the particular one of the plurality of vendors. This is not a purely mental step, but rather requires that the telephone call be routed through the telecommunications network to a vendor.

Further, the step of claim 26, which has been copied immediately above, could not be considered to be insignificant extra solution activity. Applicant has previously pointed out that the preamble of claim 26 states that the invention is “a method for tracking an effectiveness of an advertisement and for routing a telephone call placed in response to the advertisement”. Applicant is not trying to rely on the preamble of claim 26 for patentability. Rather applicant is asserting that since the preamble states that the invention is “a method ... for routing a telephone call placed in response to the advertisement”, the steps in the body of the claim relating to routing the telephone call cannot be considered to be “insignificant extra solution activity” as the Examiner has alleged. It should be clear that the step of routing the call through the telecommunications network is central to the invention.

Claim 26 includes a step of: obtaining the identification code from the telecommunications network and using the identification code to update a database, which is accessible by the particular one of the plurality of vendors,

in order to obtain performance information indicating the effectiveness of the advertisement. This is not a purely mental step, but rather requires that the identification code be obtained from the telecommunications network and used to update a database.

Applicant believes that claim 26 is statutory subject matter under 35 U.S.C. § 101.

Claim 30 even more specifically ties the invention to the keypad of the telephone and to the telecommunications network. Claim 30 specifies wherein the potential customer places the telephone call by entering the telephonic number into a keypad of a telephone communicating with the telecommunications network; and the potential customer enters the identification code into the telecommunications network by entering the identification code into the keypad of the telephone communicating with the telecommunications network.

Claim 36 has been added to tie the invention to the Internet. Support can be found by referring to paragraphs 123 and 130 of the specification. Claim 36 and claim 26 now require a step of: placing an advertisement for a product or service on the internet (advertisement medium), the advertisement including a telephonic number for contacting a vendor in order to obtain the product or service and the advertisement including an identification code for indicating an effectiveness of the advertisement.

Withdrawn claim 9 has been canceled.

Applicant believes it is clear that the claims meet the requirements of 35 USC § 101. If however, the Examiner still maintains the rejection, applicant once again asks the Examiner for guidance as to what, in the Examiner's opinion, needs to be added to the claims to satisfy the requirements of 35 USC § 101. Thus far the Examiner has offered no information in response to applicants request for guidance in this regard.

Under the heading "Double Patenting" on page 3 of the above-identified Office Action, claims 26 and 30-35 have been provisionally rejected on the ground of non-statutory double patenting over claims 17-19 of co-pending application No. 11/164084.

Applicant appreciates the indication of a potential problem. Applicant will take appropriate action if the co-pending application issues as a patent.

Under the heading "Double Patenting" on page 4 of the above-identified Office Action, claims 26 and 30-35 have been provisionally rejected on the ground of non-statutory double patenting over claims 1-11 of co-pending application No. 11/877639.

Applicant appreciates the indication of a potential problem. Applicant will take appropriate action if the co-pending application issues as a patent.

Under the heading "Drawings" on page 4 of the above-identified Office Action, the Examiner objected to Figs. 1 and 2.

The label "prior art" has been added to Figs. 1 and 2. Page numbers have been added to all sheets of the drawings.

Under the heading "Claim Rejections – 35 USC § 103" on page 5 of the above-identified Office Action, claims 26, 30, 33-35 have been rejected as being obvious over U.S. Patent No. 6,097,792 to Thornton in view of U.S. Patent No. 7,200,566 B1 to Moore et al. under 35 U.S.C. § 103. Applicant respectfully traverses.

Thornton teaches routing the call to a vendor based on the access number that the caller dialed and on the geographic location of the caller with respect to the geographic location of a broker, agent, dealership, branch or store of the subscriber or vendor.

In regard to claim 26, the Examiner has recognized that Thornton does not teach a step of:

based at least partly on bids made for routing the telephone call,

selecting a particular one of the plurality of vendors and routing the telephone call through the telecommunications network to the particular one of the plurality of vendors.

The Examiner has cited column 9, line 65 through column 10, line 12 of Moore et al. and has alleged that Moore et al. teach such a step. Applicants believe the Examiner is clearly wrong.

Moore et al. teach that preferences, which indicate items that the mobile telephone subscriber or consumer C (potential customer) desires to purchase, are stored on the mobile telephone D. These stored preferences are provided to merchants so that the merchants can offer goods for sale that match the preferences of the consumer C. In the example given, the potential customer C has stored information on the mobile telephone D indicating that he wants to purchase a TV. A message indicating this desire is transmitted to all of the merchants within a given area. The consumer receives two offers, which offer different TV's at different prices. The consumer provides a response to one of the merchants and this response informs the merchant of the offer from the other merchant. This response can be performed by the consumer or can be automatically generated by a program which presumably is operating on the mobile telephone D (See column 9, line 33 through column 10, line 12).

Moore et al. merely teach a method that allows merchants to offer merchandise for sale to the consumer on the consumer's mobile telephone.

Moore et al. do not teach based at least partly on bids made for routing the telephone call, selecting a particular one of the plurality of vendors. Moore et al. merely teach that merchants can send messages offering goods for sale. These offers of goods for sale are not bids for routing a telephone call.

Further, Moore et al. merely teach that a message can be sent to a merchant in response to an offer that was made by that merchant and other merchants (the message informs the merchant of a competing offer). Moore et al. do not teach routing the telephone call through the telecommunications network to the particular one of the plurality of vendors that was selected based at least partly on the bid.

In contrast to claim 26, Moore et al. do not teach based at least partly on bids made for routing the telephone call, selecting a particular one of the plurality of vendors and routing the telephone call through the telecommunications network to the particular one of the plurality of vendors.

Applicant reminds the Examiner that Thornton teaches routing the call to a vendor based on the access number that the caller dialed and on the geographic location of the caller with respect to the geographic location of a broker, agent, dealership, branch or store of the subscriber or vendor. Moore et al. do not teach anything related to any type of routing similar to that in Thornton.

The invention as defined by claim 26 could not have been suggested by Thornton and Moore et al.

Under the heading "Claim Rejections – 35 USC § 103" on page 7 of the above-identified Office Action, claims 31 and 32 have been rejected as being obvious over U.S. Patent No. 6,097,792 to Thornton in view of U.S. Patent No. 7,200,566 B1 to Moore et al. and further in view of U.S. Patent No. 6,898,571 to Val et al. under 35 U.S.C. § 103. Applicant respectfully traverses.

Claims 31 and 32 could not have been suggested for the reasons given above with regard to claim 28 and the teaching in Moore et al.

As discussed above, Thornton teaches routing the call to a vendor based on the access number that the caller dialed and on the geographic location of the caller with respect to the geographic location of a broker, agent, dealership, branch or store of the subscriber or vendor.

The code, which is taught by Val et al., is not used for routing a telephone call, but rather is used for enabling the customer to obtain a customized advertisement or certain enhancement such as coupons. The advertisement can be customized with respect to that customer or with respect to the geographic location of the customer.

Val et al. do not teach or suggest using an Identification code in an advertisement to select one of a plurality of vendors and to then route a telephone call to the selected vendor. Therefore, the invention as defined by claims 31 and 32 could not have been suggested by Thornton, Moore et al. and Val et al.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claim 26. Claim 26 is, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claim 26.

In view of the foregoing, reconsideration and allowance of claims 6 and 30-36 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

Please charge any fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner Greenberg Sterner LLP, No. 12-1099.

Respectfully submitted,

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MPW:cgm

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